

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of: :
:
PolyOne Designed Structures :
and Solutions, LLC : **U.S. EPA Docket RCRA-03-2017-0139**
601 Marvel Road :
Salisbury, MD 21801 :
:
Respondent. : **Proceeding under Section 3008(a) and**
: **(g) of the Resource Conservation and**
: **Recovery Act, as amended, 42 U.S.C.**
: **Section 6928(a) and (g)**

2017 JUN 15 11:03 AM
EPA REGION III

CONSENT AGREEMENT

I. PRELIMINARY STATEMENT

1. The Director of the Land and Chemicals Division, U.S. Environmental Protection Agency, Region III (“Complainant,” “EPA,” or “Agency”) and PolyOne Designed Structures and Solutions, LLC (“Respondent”) hereby enter into this Consent Agreement pursuant to Section 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as “RCRA”), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).

2. This Consent Agreement and the accompanying Final Order (herein jointly referred to as the “CAFO”) address alleged violations, by Respondent, of Subtitle C of RCRA, 42 U.S.C. §§ 6921 – 6939g, and the current authorized State of Maryland Hazardous Waste Management Regulations (“MdHWMR”), set forth at the Code of Maryland Regulations (“COMAR”), Title 26, Subtitle 13 *et seq.* in connection with Respondent’s facility located at 601 Marvel Road, Salisbury, Maryland, 21801 (the “Facility”).

3. The MdHWMR were originally authorized by EPA on February 11, 1985, pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). Revisions to the MdHWMR set forth at COMAR, Title 26, Subtitle 13, were authorized by EPA effective July 31, 2001 and September 24, 2004. The provisions of the revised authorized program are enforceable by EPA pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

II. GENERAL PROVISIONS

4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement.

5. Respondent neither admits nor denies the specific factual allegations or the conclusions of law contained in this Consent Agreement, except for Paragraph 4 herein.

6. For purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of this CAFO.

7. For the purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and any right to appeal the accompanying Final Order.

8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms and conditions.

9. Respondent shall bear its own costs and attorneys' fees in connection with this proceeding.

10. In accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), and by written communication dated June 8, 2016, EPA notified the State of Maryland (hereinafter, the "State"), through the Solid Waste Program Administrator of the Maryland Department of the Environment ("MDE"), of EPA's intent to commence this administrative action against Respondent in response to the violations of RCRA Subtitle C that are alleged herein.

11. Upon making a determination that any person has violated or is in violation of any requirement of RCRA Subtitle C, and upon satisfying the notification requirements of RCRA Section 3008(a)(2), 42 U.S.C. § 6928(a)(2), RCRA Section 3008(a)(1), 42 U.S.C. § 6928(a)(1), authorizes the Administrator of EPA to issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both.

12. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), authorizes EPA to assess a civil monetary penalty against any person who violates any requirement of Subtitle C of RCRA, applicable EPA regulations thereunder, or any regulation of a state hazardous waste program which has been authorized by EPA, up to \$25,000 for each day of violation, adjusted upward to \$32,500 by the 2004 Civil Monetary Penalty Inflation Adjustment Rule ("CMP Rule"), 69 Fed. Reg. 7121 (Feb. 13, 2004), up to \$37,500 by the 2008 CMP Rule, 73 Fed. Reg. 75340 (Dec. 11, 2008), and further adjusted upward to \$70,117 for each day of violation by the 2016 CMP Rule, 81 Fed. Reg. 43091 (July 1, 2016).

13. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CAFO, issued pursuant to 40 C.F.R. § 22.18(b)(2) and (3), simultaneously commence and conclude an administrative proceeding against Respondent, brought under Sections 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g), to resolve alleged violations of RCRA at Respondent's Facility.

III. EPA FINDINGS OF FACT AND CONCLUSIONS OF LAW

14. In accordance with the Consolidated Rules of Practice at 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following findings of fact and conclusions of law:

15. Respondent, PolyOne Designed Structures and Solutions, LLC, is a corporation organized under the laws of the State of Delaware which does business in, *inter alia*, the State of Maryland.

16. As a corporation, Respondent is a "person" as defined by Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and COMAR 26.13.01.03(B)(61) and has an office located at 601 Marvel Road, Salisbury, MD 21801.

17. Respondent is, and at all times relevant to this CAFO has been, the "operator" and the "owner" of a "facility" located at 601 Marvel Road, Salisbury, MD 21801 ("Facility"), as these terms are defined by COMAR 26.13.01.03(B)(58), (59) and (23), respectively.

18. At the Facility, Respondent produces engineered polymer structures, rigid barrier packaging and specialty cast acrylics.

19. Respondent is, and at all times relevant to this CAFO has been, a "generator" of, and has engaged in the "storage" of, materials that are "solid wastes" and "hazardous waste," EPA Hazardous Waste No. D001, at the Facility as those terms are defined by COMAR 26.13.01.03(B)(29), (76), (73), and (31), respectively, including *inter alia*, used mercury-containing waste lamps (EPA Hazardous Waste No. D009).

20. Respondent is, and at all times relevant to the violations in this CAFO has been, a generator of more than 1000 kilograms of hazardous waste in a calendar month (hereinafter "large quantity generator" or "fully-regulated generator"). Since at least 2013, the Facility was assigned EPA ID No. MDD056497589.

21. On July 8-9, 2015, duly-authorized representatives of EPA performed a compliance evaluation inspection ("CEI") at the Facility ("July 2015 Inspection") to assess the Respondent's compliance with federally-authorized MdHWMR requirements at the Facility.

22. On March 23, 2016, EPA issued a Request for Information ("RFI") to PolyOne to which PolyOne responded on April 29, 2016.

23. On February 16, 2017, EPA issued a letter to Respondent providing it with an opportunity to confer regarding EPA's proposed penalty order (the "Feb. 16, 2017 EPA Letter"). In the letter, EPA advised Respondent of EPA's preliminary findings of MdHWMR violations at the

Facility, requested that Respondent provide certain specified information in furtherance of its CEI at the Facility, and additionally offered Respondent the opportunity to provide such additional information as it believed the Agency should review and consider before reaching any final conclusions as to the Respondent's MdHWMR compliance status at the Facility.

24. Respondent provided written responses to EPA's Letter on March 20, 2017 ("Response Letter").

25. On the basis of the information collected by EPA during the Facility CEI and file review, as well as information provided in PolyOne's Response Letter, EPA concludes that Respondent has violated certain requirements and provisions of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, and federally-authorized MdHWMR requirements promulgated thereunder.

COUNT I

Operation Without a Permit or Interim Status

26. The preceding paragraphs are incorporated by reference.

27. Pursuant to Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e), and COMAR 26.13.07.01, with exceptions not relevant to this matter, no person may own or operate a facility for the treatment, storage or disposal of hazardous waste without first obtaining a permit or interim status for such facility.

28. Section 3005(e) of RCRA, 42 U.S.C. § 6925(e), provides, in pertinent part, that any person who owns or operates a facility required to have a permit under RCRA § 3005, which facility was in existence on November 19, 1980, or is in existence on the effective date of statutory or regulatory provisions that render the facility subject to the requirement to have a permit, has complied with the notification requirements of RCRA § 3010(a), 42 U.S.C. § 6930(a), and has applied for a permit under RCRA § 3005, shall be treated as having been issued such permit (*i.e.*, "interim status") until such time as final administrative disposition of such application is made.

29. Respondent has never had "interim status" pursuant to RCRA Section 3005(e) or a permit issued pursuant to RCRA Section 3005(a) and COMAR 26.13.07 for the treatment, storage, or disposal of hazardous waste at the Facility.

30. Pursuant to COMAR 26.13.03.05(E), large quantity generators of hazardous waste that accumulate hazardous waste on-site for less than 90 days are exempt from the requirement to obtain a permit or interim status for such accumulation, so long as the hazardous waste is stored in a manner that does not result in, *inter alia*, the following violations:

- a. *Accumulation over 90 days.* Pursuant to COMAR 26.13.03.05(E)(1), a generator may accumulate hazardous waste on-site for 90 days in containers if it otherwise meets the requirements of this section. At the time of the July 2015 Inspection, EPA finds that PolyOne had accumulated for storage over 90 days the volume of approximately five drums of hazardous waste, EPA Hazardous Waste No. D001, without first obtaining a permit or interim status for such facility.

- b. *Failure to keep hazardous waste container closed.* Pursuant to COMAR 26.13.03.05(E)(1)(d) and 26.13.05.09(D), containers used to store hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste. At the time of the July 2015 Inspection, EPA finds that PolyOne had the following open containers at a time when it was not necessary to add or remove waste: one 55-gallon hazardous waste drum (EPA Hazardous Waste No. D001) in Press Room 1 with an open bung hole, and four cardboard boxes of lamps storing used mercury-containing waste lamps (EPA Hazardous Waste No. D009) in “A” Dock.
- c. *Storage of over 55 gallons of hazardous waste in satellite area.* Pursuant to COMAR 26.13.03.05(E)(3), a generator may accumulate as much as 55 gallons of hazardous waste in containers, at or near any point of generation where wastes initially accumulate, and which is under the control of the operator of the process generating the waste, without a permit. At the time of the July 2015 Inspection, EPA finds that PolyOne had accumulated more than 55 gallons in a satellite accumulation area.
- d. *Failure to update Contingency Plan.* Pursuant to COMAR 26.13.03.05(E)(1)(g), which requires compliance with COMAR 26.13.05.04, generators of hazardous waste may accumulate hazardous waste on-site for less than 90 days in containers provided that the owner or operator of a hazardous waste facility review, and immediately amend, if necessary, its required Contingency Plan whenever, *inter alia*, the “[l]ist of emergency coordinators changes.” COMAR 26.13.05.04(E)(4). At the time of the July 2015 Inspection, PolyOne’s Contingency Plan listed an emergency coordinator who was no longer employed by PolyOne. Accordingly, EPA finds that PolyOne has violated the requirement to review and immediately amend its Contingency Plan when the emergency coordinator changed.
- e. *Failure to properly label hazardous waste containers.* Pursuant to COMAR 26.13.03.05(E)(1)(f)(i)-(ii), a generator may accumulate hazardous waste on-site without a permit or without holding interim status for 90 days or less if, *inter alia*, each container is “[p]roperly labeled” and “marked clearly with the words ‘Hazardous Waste’, while being accumulated on site.” At the time of the July 2015 Inspection, EPA finds that PolyOne had failed to properly label five cardboard boxes of lamps storing used mercury-containing waste lamps (EPA Characteristic Hazardous Waste D009) in “A” Dock.

31. For the reasons and during each of the dates and time periods identified in Paragraph 30 above, Respondent failed to comply with the conditions for temporary storage (*i.e.*, 90 days or less) of hazardous waste by a generator that are required pursuant to COMAR 26.13.03.05(E), and therefore failed to qualify for an exemption from the permitting/interim status requirements provided by such section.

32. Respondent’s Facility is a hazardous waste treatment, storage or disposal “facility” as that term is defined in COMAR 26.13.01.03B(23), with respect to the storage of hazardous waste as described above.

33. EPA finds that from at least July 8, 2015 until December 10, 2015, for each of the reasons set forth in Paragraph 31, above, Respondent did not meet the requirements for a permit exemption under COMAR 26.13.03.05(E) and therefore violated COMAR 26.13.07.01(A) and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility (*i.e.*, the Facility) without a permit or interim status, or valid exemption to the permitting/interim status requirements.

COUNT II

Failure to Make Hazardous Waste Determinations

34. The preceding paragraphs are incorporated by reference.

35. Pursuant to COMAR 26.13.03.02, "[a] person who generates a solid waste, as defined in COMAR 26.13.02.02, shall determine if that waste is a hazardous waste" using the methods set forth therein.

36. At the time of the July 2015 Inspection, PolyOne was storing four pallets holding inventory materials in the "Lamination Area." EPA finds that PolyOne failed to make required hazardous waste determinations for these inventory materials as EPA Hazardous Waste No. D001 until September 17, 2015, approximately 70 days following the close of the July 2015 Inspection.

37. Accordingly, EPA finds that, as of July 8-9, 2015, PolyOne failed to make hazardous waste determinations for the solid waste listed in Paragraph 36 above, in violation of COMAR 26.13.03.02.

COUNT III

Failure to Keep Hazardous Waste Containers Closed When Not Adding or Removing Waste

38. The preceding paragraphs are incorporated by reference.

39. Pursuant to COMAR 26.13.05.09(D), "[a] container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste. . . ."

40. At the time of the July 2015 Inspection, EPA inspectors observed that PolyOne failed to keep the following hazardous waste containers closed when not adding or removing waste: one 55-gallon hazardous waste drum in Press Room 1 with an open bung hole, and four cardboard boxes of lamps storing used mercury-containing waste lamps (EPA Characteristic Hazardous Waste D009) in "A" Dock.

41. Accordingly, EPA finds that, as of July 8-9, 2015, PolyOne has violated COMAR 26.13.05.09(D) by failing to keep hazardous waste containers closed when not adding or removing waste.

COUNT IV

**Failure to Update Contingency Plan a/k/a Failure to Comply with Contingency Plan
Preparation and Maintenance Requirements)**

42. The preceding paragraphs are incorporated by reference.

43. Pursuant to COMAR 26.13.05.04(E)(4), the owner or operator of a hazardous waste facility must review, and immediately amend, if necessary, its required Contingency Plan whenever, *inter alia*, the "[l]ist of emergency coordinators changes."

44. At the time of the July 2015 Inspection, PolyOne's Contingency Plan listed an emergency coordinator who was no longer employed by PolyOne.

45. Accordingly, EPA finds that, as of July 8-9, 2015, PolyOne violated COMAR 26.13.05.04(E)(4) by failing to review and immediately amend its Contingency Plan when the emergency coordinator changed.

V. CIVIL PENALTY

46. Respondent agrees to pay a civil penalty in the amount of twenty-nine thousand, nine-hundred sixty dollars (\$29,960.00) in settlement of the violations set forth in this CAFO, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the fully-executed and filed CAFO. In order to avoid the assessment of interest, administrative costs and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent. The aforesaid settlement amount was based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6928(a)(3) and (g), as well as adjustments pursuant to the 2016 Civil Monetary Penalty Inflation Adjustment Rule.

47. Respondent shall remit the full penalty pursuant to paragraph 46, above, and/or any associated interest, administrative costs and late payment penalties, by either cashier's check, certified check, or electronic wire transfer, in the following manner:

- a. All payments by Respondent shall reference Respondent's name, address and the docket number of this action, Docket No. U.S. EPA RCRA-03-2017-0139.
- b. All checks shall be made payable to "United States Treasury".

- c. All payments made by check and sent by regular U.S. Postal Service mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Customer service contact: 513-487-2091

- d. All payments made by check and sent by private commercial overnight delivery service shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
Government Lockbox 979077
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

Contact: 314-418-1818

- e. All payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OH 45268-0001

- f. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account No. = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read:
“D 68010727 Environmental Protection Agency”

- g. All electronic payments made through the Automated Clearinghouse (ACH), also known as Remittance Express (REX), shall be directed to:

5700 Rivertech Court
Riverdale, MD 20737

Contact: 866-234-5681

h. On-Line Payment Option

WWW.PAY.GOV/paygov/
Enter "sfo 1.1" in the search field. Open and complete the form.

i. Additional payment guidance is available at:

<http://www2.epa.gov/financial/makepayment>

48. At the time of payment, Respondent shall simultaneously send a notice of *each* payment, *including a copy of the check or electronic wire transfer, as applicable, to:*

Ms. Lydia Guy
Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029;

and

Lori G. Kier, Esq.
Senior Assistant Regional Counsel
Waste and Chemical Law Branch (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.

49. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest, administrative costs and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment or to comply with the conditions in this CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

50. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a true and correct final executed version of this CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).

51. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's Resources Management Directives - Cash Management, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.

52. A late payment penalty of six percent (6%) per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). The late payment penalty on any portion of the civil penalty that remains delinquent more than ninety days shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

53. Respondent agrees not to deduct for federal tax purposes the civil monetary penalty specified in this CAFO.

VI. CERTIFICATION OF COMPLIANCE

54. Respondent certifies to Complainant by its representative's signature hereto that, to the best of its knowledge and belief, that Respondent and the Facility are currently in compliance with all relevant provisions of the federally-authorized MdHWMR, and of RCRA Subtitle C, 42 U.S.C. §§ 6921-6939g, for which violations are alleged in this Consent Agreement.

VII. OTHER APPLICABLE LAWS

55. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

VIII. EFFECT OF SETTLEMENT

56. Filing of the CAFO herein shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Sections 3008(a) and (g) for the specific violations alleged herein. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

IX. RESERVATION OF RIGHTS

57. This CAFO resolves only EPA's claims for civil penalties for the specific violations which are alleged in this Consent Agreement. Nothing in this CAFO shall be construed as limiting the authority of EPA to undertake action against any person(s), including the Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO following its filing with the Regional Hearing Clerk.

X. FULL AND FINAL SATISFACTION

58. This settlement shall constitute full and final satisfaction of all civil claims for penalties which Complainant has against Respondent under RCRA Section 3008(a) and (g), 42 U.S.C. § 6928(a) and (g), for the violations alleged in this Consent Agreement. Compliance with the requirements and provisions of this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and/or regulations administered by EPA.

XI. PARTIES BOUND

59. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his signature below, the person signing this Consent Agreement on behalf of the Respondent acknowledges that he is fully authorized to enter into this Consent Agreement and to bind Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

XII. EFFECTIVE DATE


60. The effective date of this CAFO is the date on which the Final Order is filed with the Regional Hearing Clerk.

XIII. ENTIRE AGREEMENT

61. This CAFO constitutes the entire agreement and understanding of the parties concerning settlement of the above-captioned action and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this CAFO.

For the Respondent:

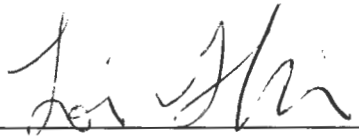
Date: June 20, 2017

By: 
Name: Richard N. Altice
Title: President
PolyOne Designed Structures and Solutions, LLC

RFJ

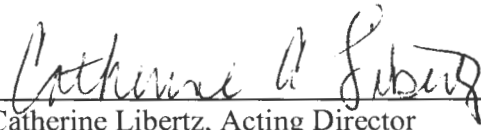
For the Complainant:

Date: 6/27/17

By: 
Lori G. Kier, Esq.
Sr. Assistant Regional Counsel
U.S. Environmental Protection Agency, Region III

After reviewing the EPA Findings of Fact, Conclusions of Law and other pertinent matters, the Land and Chemicals Division of the United States Environmental Protection Agency, Region III, recommends that the Regional Administrator, or his designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 6-27-17

By: 
Catherine Libertz, Acting Director
Land and Chemicals Division
U.S. Environmental Protection Agency, Region III

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:	:	
	:	
PolyOne Designed Structures and Solutions, LLC	:	U.S. EPA Docket No. RCRA-03-2017-0139
601 Marvel Road	:	
Salisbury, MD 21801	:	
	:	
Respondent.	:	Proceeding under Section 3008(a) and (g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Section 6928(a) and (g)

FINAL ORDER

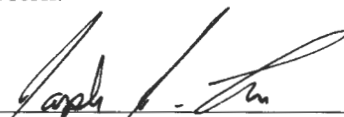
Complainant, the Director, Land and Chemical Division, U.S. Environmental Protection Agency, Region III, and PolyOne Designed Structures and Solutions, LLC (“Respondent”), have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. § 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated herein as if set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s October, 1990 RCRA Civil Penalty Policy, as revised in June, 2003 (“RCRA Penalty Policy”), and the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

NOW, THEREFORE, PURSUANT TO Section 3008(a) and (g) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6928(a) and (g) (“RCRA”), and Section 22.18(b)(3) of the Consolidated Rules of Practice, IT IS HEREBY ORDERED that Respondents pay a civil penalty payment of twenty-nine thousand, nine-hundred sixty dollars (\$29,960), in accordance with the payment provisions set forth in of the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of the attached Consent Agreement and this Final Order is the date on which the Final Order is filed with the Regional Hearing Clerk.

July 18, 2017
Date: 0



Joseph J. Lisa
Regional Judicial Officer
U.S. EPA, Region III

CERTIFICATE OF SERVICE

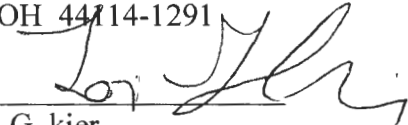
I hereby certify that on the date set forth below, I hand-delivered the original and one copy fo the Consent Agreement and Final Order, Docket No. RCRA-03-2017-0139, to:

Ms. Lydia Guy
Regional Hearing Clerk
U.S. E.P.A.
1650 Arch Street
Philadelphia, PA 19103-2029

I further certify that on the same date, I sent ia email and via certified mail – return receipt requested, a true and correct copy of the aforesaid Consent Agreement and Final Order to:

Heidi Friedman, Esq.
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, OH 44114-1291

7/18/17
Date



Lori G. Kier
Senior Assistant Regional Counsel
U.S. E.P.A.
1650 Arch Street
Philadelphia, PA 19103-2029